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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Fukushima: Persisting violations of fundamental human rights of affected people by the Japanese Government after the Fukushima nuclear disaster

1. Introduction

Four years have passed since the nuclear accident at the Fukushima Dai-ichi Nuclear Power station on the 11th March 2011.[1] There is still a remaining concern over the health and protection of the people living where the radiation exposure exceeds 1mSv/year, especially for vulnerable people such as children, pregnant women and the elderly.

In May 2013, the UN Special Rapporteur on the Right to Health, Mr. Anand Grover proposed comprehensive recommendations to Japan in his report(herein after Grover recommendations)[2], and in July 2014, UN Human Rights Committee(herein after HRC) also made clear recommendations to Japan[3] to fulfil its obligation under the ICCPR and ICESCR.

However, the Japanese government has dismissed most of the recommendations, claiming that they are "not scientifically proven."[4] The government has not taken holistic measures to protect their citizens' health due to their dependence on a cost-benefit approach.

2. The Right to Life (ICCPR Article 6) and the Right to Health (ICESCR Article 12)

Japan has taken inadequate measures to protect the victims of the Fukushima nuclear accident. Many people, including children and pregnant women, have to live in contaminated areas based on the government's boundary of the evacuation zones set on the basis of an exposure level of 20mSv/year, a threshold 20 times higher than the international protection standard.[5]

In December 2014, Minami-Soma city in Fukushima Prefecture was undesignated as a protected region, disregarding citizens' concerns about returning to their contaminated homes.[6] As a result, the citizens will see their compensation from TEPCO terminated at the end of March 2015. People who return to the former evacuation zone before March 2015 will receive additional compensation amount to 900,000 yen while their housing support will be terminated.[7] Thus, people with limited financial means will have no choice but to return to the contaminated area.

These policies totally ignore the Mr. Grover's recommendation to *"formulate a national plan of evacuation zones and dose limits of radiation by using current scientific evidence, based on human rights rather than a risk-benefit analysis, and reduce the radiation dose to less than 1mSv/year"* as well as the HRC's recommendation to "*take all the necessary measures to protect the life of the people affected by the nuclear disaster in Fukushima and lift the designation of contaminated locations as evacuation areas only where the radiation level does not place the residents at risk.*"[8]

3. The Right to adequate Housing(ICESCR Art.11) and Rights to Family Rights(ICCPR Art. 23)

The Japanese government has also failed to protect the Right to Family Life and Rights to adequate Housing of the affected population.

260,000 people remain in temporary housings and remain displaced throughout Japan as a result of their evacuation from the contaminated areas within Fukushima.[9] Many of them still live in provisional housing without

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[1] Human Rights Now is an international human rights NGO based in Tokyo, Japan

[2] Grover, A/HRC/23/41/Add.3; HRC, http://www.ccprcentre.org/doc/2014/07/CCPR_C_JPN_CO_6_17701_E.doc

[3] Concluding observations on the sixth periodic report of Japan, CCPR/C/JPN/CO/6

[4] A/HRC/23/41/Add.5/Rev.1

[5] Although the government considers exposure below 100mSv/year to be safe, it decided to use a 20mSv/year standard in setting the evacuation zone

[6] NHK (Dec.21) [http://www3.nhk.or.jp/news/genpatsu-fukushima/20141221/0604_minamisouma.html]

[7] http://www.reconstruction.go.jp/topics/main-cat8/sub-cat8-1/20131011_betten1_houshin.pdf

[8] A/HRC/23/41/Add.3., para.78(a); http://www.ccprcentre.org/doc/2014/07/CCPR_C_JPN_CO_6_17701_E.doc

[9] Announced by the Japanese Reconstruction Agency on January 25 2015, available at

sufficient financial support. Living far from home and family result in overwhelming stress and that even lead to suicide.[10]

The government has an obligation to support the evacuees financially and mentally, and provide permanent settlement to all affected people in need immediately.

4. The Rights to Health- Access to Health Monitoring

In June 2012, the government enacted the Nuclear Disaster Victim Protection Law that provides various support for affected people especially for children to maintain their health and livelihood regardless of their status of living.[11] However, the government has neither fulfilled these responsibilities nor provided accurate and sufficient health examination services.

For example, thyroid examinations are still only available to those who were under 18 years old at the time of the nuclear accident, and follow-up tests are only performed every other year. People who were over the age of 18 at the time are not entitled to free medical care or any support for their next thyroid examinations.

It has to be noted that 86 cases of thyroid cancer were identified in August 2014, and that the number of people diagnosed with thyroid cancer has been increasing over the years.[12]However, the government's report on thyroid ultrasound examination concludes that it is unlikely that the diagnosed thyroid cancer tumors were caused by radiation.[13] The government stresses that the increasing findings are due to the "screening effect" and underestimate the health impact of radiation.

Moreover, the government has neither conducted any other health monitoring for people living in the affected area (such as blood or urine sampling, dental exams, ophthalmology, etc.) nor kept any record of illness other than thyroid cancer.

In January 2015, the government reported that there would be no need for undertaking examinations for other types of cancer unless one had been exposed to radiation of 100mSv/year.[14]

Contrary to this, it is proven that numerous diseases observed after the Chernobyl accident were provoked by low dose exposure to radiation.[15]

Mr. Grover recommendation also urged the Japanese government to monitor *"the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time and make appropriate treatment available to those in need"* emphasizing the *"health monitoring should be provided to persons residing in all affected areas with radiation exposure higher than 1mSv/year."*[16]

However, none of these recommendations have been considered thus far.

5. The Right of Access to Information (ICCPR, Article 19)

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http://www.reconstruction.go.jp/topics/main-cat2/20150123_sougoutaisaku.pdf

[10] Nihon Keizai (6 September) Available at: http://www.nikkei.com/article/DGXLASDG05045_V00C14A9CR8000/

[11] http://law.e-gov.go.jp/htmldata/H24/H24HO048.html

[12] http://www.pref.fukushima.lg.jp/uploaded/attachment/80430.pdf ; MinpouShinbun (25 Aug) Available at: http://www.minpo.jp/pub/topics/jishin2011/2014/08/post_10581.html

[13] Thyroid Ultrasound Examination (Full-Scale Thyroid Screening Program) Reported on 25th December2014. Available at http://www.fmu.ac.jp/radiationhealth/results/media/16-2_Thyroid_Ultrasound_Examination_F-S.pdf

[14] cancers such as bladder cancer, laryngeal cancer and lung cancer http://www.japanfocus.org/-Piers-_Williamson/4232

[15] See EiichiroOchiai, (2014) *Hiroshima to Fukushima: Biohazards of Radiation*, Springer, Heidelberg: 164 and Caldicott, H. (ed) Crisis Without End: The Medical And Ecological Consequences Of The Fukushima Nuclear Catastrophe, The New Press: New York for details.

[16] A/HRC/23/41/Add.3., para.77(a)

The ongoing lack of information prevents victims from knowing all relevant and reliable information, including the level of contamination in residential areas, the current status of the Fukushima nuclear plant, and the level of daily emissions of contaminated substances from the plant.

In its latest concluding observation, the HRC recommended Japan to *"monitor the levels of radiation and disclose this information to the people affected in a timely manner."*

6. Limited Public Participation

The government has been promoting the repatriation of victims to their hometowns in contaminated areas, even though people would demand a 1mSv/year radiation basis on the relevant policies.[17]

In spite of Mr. Grover's recommendation to *"ensure effective community participation, especially participation of vulnerable groups, in all aspects of the decision-making processes"*, people are often left outside of the decision-making and excluded from necessary information.

There are many surveys on radiation, health monitoring and meetings held by the local officials but there is still no effective mechanism to ensure involvement of the affected community in the national decision- making process.

7. Recommendations

HRN urges the Japanese government to reform all relevant policies based on Mr. Grover's recommendations and the latest HRC recommendations;

All policies must be formulated with a victims-based and rights-based approach;

1) The government must prioritize protection of the most vulnerable populations, with due consideration of the health risks of low level radiation exposure to 1mSv/year in national plans concerning evacuation zones, health policy, and in all measures providing for those affected;
2) Appropriate measures include long-term monitoring of the health conditions of affected people, free periodical medical checks, free examinations of internal radioactive exposure levels, as well as free healthcare and medical treatment (including urine and blood testing) for radiation-related illness;
3) Take all necessary measures to protect the right to family of the affected population, with sufficient financial and physical support and with due consideration of the current situation of separated families;
4) Enable full community participation in the next decision-making concerning future nuclear and health policies;
5) Take concrete and immediate action in conformity with the Victim Protection Law with effective participation of the affected people.

[17] Yomiuri Shinbun (Aug.5.2014) Available at: http://www.yomidr.yomiuri.co.jp/page.jsp?id=102944